

Rule 7

LEGAL EXPENSE INSURERS

Rule

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§ 1. Authority

These rules are adopted by the Commissioner of Insurance pursuant to the authority vested in him by Title 22, Section 2, Louisiana Revised Statutes of 1950, as amended.

History.—Eff. 5-20-82.

§ 2. Purpose

The purpose of these rules is to adopt uniform guidelines and requirements applicable to legal expense insurers that do business in this state.

History.—Eff. 5-20-82.

§ 3. Applicability

The rules shall apply to all legal expense insurers as defined herein.

History.—Eff. 5-20-82.

§ 4. Definitions

When used in these rules, the following words or terms have the meaning described in this section.

(1) "Commissioner" means the Commissioner of Insurance for the State of Louisiana.

(2) "Department" means the Department of Insurance for the State of Louisiana.

(3) "Legal Expense Insurer" means any person who accepts a pre-payment from or for the benefit of any other person or group of persons as consideration for providing to such person or group of persons the opportunity to receive reimbursement or payment for legal services at such time in the future that such services may be appropriate or necessary.

(4) "Person" means an individual, insurers, association, organization, partnership, business, trust or other legal entity.

(5) "Agent" means an individual who is a resident of this state; or whose principal office is in this state, or a partnership the members of which are residents of this state or have their principal office in this state, or a corporation having by its charter the power to act as an insurance agent and whose principal office is in this state, and whose officers and principal stockholders are residents of this state, authorized in writing by an insurer lawfully authorized to transact business in this state, to act as its representative with authority to solicit, negotiate and effect contracts of insurance in its behalf, who or which has an office in this state in which is kept a record of the contracts of insurance signed, countersigned or issued by them.

History.—Eff. 5-20-82.

§ 5. Exemptions

The following activities are exempted from the provisions of these rules and they shall not be applicable to persons engaged in those capacities:

- (1) Retainer contracts between attorney(s) and client(s).
- (2) Lawyer referral service authorized by the Louisiana Bar.
- (3) Furnishing of legal assistance by labor unions or other employee organizations to their members relating to employment.
- (4) Furnishing of legal assistance to members by a church, cooperation, educational institution, credit union or organization of employees, where the above contract directly with an attorney or firm of attorneys for legal services.
- (5) Employee benefit plans to the extent state laws are superceded by

29 USC 1144, provided evidence of exemption from state law is provided to the Department.

History.—Eff. 5-20-82.

§ 6. Qualifications as insurer required

Any person who accepts a pre-payment from or for the benefit of any other person or group of persons as consideration for providing to such person or group of persons the opportunity to receive reimbursement or payment for legal services at such time in the future as such services may be appropriate or necessary must meet the requirements of the Louisiana Insurance Code by becoming qualified as an insurer which is authorized to write fidelity and surety coverage. (See “Exemptions” under Section 5 of this Rule.) Persons offering these services shall qualify as a mutual, stock, reciprocal or Lloyds’ plan insurer as defined in Title 22, Louisiana Revised Statutes of 1950, as amended.

History.—Eff. 5-20-82.

§ 7. Licensing of agents required

The legal expense insurer as defined herein shall not contract with, or employ, agents that are not properly licensed under the provisions of Title 22, Louisiana Revised Statutes of 1950, as amended, to solicit, negotiate or issue contracts of insurance that afford legal expense coverage. All of the provisions of law applicable to insurance agents, other than life, health, and accident agents, shall apply to those agents.

History.—Eff. 5-20-82.

§ 8. Compliance required

Legal expense insurers that have previously done business in this state as an individual corporation, partnership, or other entity shall, within sixty (60) days following final promulgation of these rules, show that they are in compliance with them and applicable provisions of law.

History.—Eff. 5-20-82.

§ 9. Penalty for non-compliance

Any legal expense insurer as defined herein and that is not subject to the “Exemptions” in Section 5 of these rules and who does not hold a current and valid certificate of authority to do business in this state is in

violation of Louisiana R.S. 22:7A and the Commissioner shall take the necessary steps to enforce those provisions of law. Further, any person who solicits, negotiates, or issues a contract of insurance that affords legal expense insurance coverage as an agent of a legal expense insurer and who does not hold a proper and valid license as an agent shall be subject to the provisions of Louisiana R.S. 22:1175 and the Commissioner shall take the necessary steps to enforce these provisions of the law.

History.—Eff. 5-20-82.

§ 10. Severability

If any of the provisions of these rules is held invalid, such invalidity shall not affect other provisions which can be given effect without the invalid item, and to this end the provisions of these rules are hereby declared severable.

History.—Eff. 5-20-82.